



# Public Notice

**US Army Corps  
of Engineers**  
Louisville District

Public Notice No.

200301226

Date:

18 Dec 03

Closing Date:

17 Jan 04

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Ms. Kimberly M. Beasley, CELRL-OP-FS

P.O. Box 59

Louisville, Kentucky 40201-0059

Phone: (502) 315-6688

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA).

APPLICANT: JAH Nicholasville Road, LLC  
400 Bellerive Boulevard, Suite 200  
Nicholasville, Kentucky 40356

AGENT: Palmer Engineering  
400 Shoppers Drive  
Winchester, Kentucky 40392

LOCATION: The site is located on unnamed tributaries to West Hickman Creek, west of US 27 and south of the Jessamine and Fayette County lines in northern Jessimine County, Kentucky.

Latitude: 37-57-16.8534  
Longitude: 84-32-06.5495  
7.5 Minute Quad: Nicholasville

PURPOSE: The purpose for placement of fill is to prepare the site for construction of a commercial development.

DESCRIPTION OF WORK: The applicant proposes to place fill material into 2,140 linear feet of unnamed ephemeral tributaries, Streams 1 and 3, and 850 linear feet of an unnamed intermittent tributary, Stream 2, to West Hickman Creek (see attached Sheet 2 of 3). The fill material would consist of soil and rock obtained onsite. Approximately 17 cubic yards of material would be used to fill the ephemeral streams and 32 cubic yards to fill the intermittent stream. Additionally, a 1.2 acre pond and associated 0.07 acre emergent wetland located around the fringe of the pond, downstream of the streams, would be excavated for the construction of a retention basin. Approximately 113 cubic yards of soil and rock obtained onsite would be used to fill a portion of the pond and wetland for the construction of the retention basin dam.

MITIGATION: To mitigate for impacts to "waters of the United States," the applicant proposes to pay monies toward an in-lieu fee program for the intermittent stream impacts and construct an enlarged retention basin to mitigate for the function loss of the wetland and pond. The applicant requests to be exempt from mitigating for the impacts to the ephemeral streams due to their small size and low functional value. It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate

mitigation upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the Kentucky Natural Resources and Environmental Protection Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Ms. Kimberly M. Beasley, CELRL-OP-FS at the address noted above and should refer to the Public Notice Number 200301226-kmb.